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M. Passer*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION)	
CORPORATION,)	Adv. Pro. No. 08-1789 (SMB)
)	
Plaintiff-Applicant,)	SIPA LIQUIDATION
)	
v.)	
)	
BERNARD L. MADOFF INVESTMENT)	Substantively Consolidated
SECURITIES LLC)	
)	
Defendant.)	
-----)	
In re:)	
)	
BERNARD L. MADOFF,)	
)	
Debtor.)	
-----)	
IRVING H. PICARD, TRUSTEE FOR THE)	Adv. Pro. No. 10-4362 (SMB)
LIQUIDATION OF BERNARD L. MADOFF)	
INVESTMENT SECURITIES LLC,)	
)	
Plaintiff.)	
)	
v.)	
)	
SAGE ASSOCIATES; LILLIAN M. SAGE,)	
in her Capacity as Partner or Joint Venturer of)	
Sage Associates and Individually as)	
Beneficiary of Sage Associates;)	
MALCOLM H. SAGE, in his Capacity as)	
Partner or Joint Venturer of Sage Associates)	

and Individually as Beneficiary of Sage)
Associates; MARTIN A. SAGE, in his)
Capacity as Partner or Joint Venturer of Sage)
Associates and Individually as Beneficiary of)
Sage Associates; ANN M. SAGE PASSER, in)
her Capacity as Partner or Joint Venturer of)
Sage Associates and Individually as)
Beneficiary of Sage Associates,)
)
)
Defendants.)
)
_____)

IRVING H. PICARD, TRUSTEE FOR THE)
LIQUIDATION OF BERNARD L. MADOFF)
INVESTMENT SECURITIES LLC,)
)
)
Plaintiff.)
)
)
v.)
)
)

Adv. Pro. No. 10-4400 (SMB)

SAGE REALTY; LILLIAN M. SAGE, in her)
Capacity as Partner or Joint Venturer of Sage)
Realty and Individually as Beneficiary of)
Sage Realty; MALCOLM H. SAGE, in his)
Capacity as Partner or Joint Venturer of Sage)
Realty and Individually as Beneficiary of)
Sage Realty; MARTIN A. SAGE, in his)
Capacity as Partner or Joint Venturer of Sage)
Realty and Individually as Beneficiary of)
Sage Realty; ANN M. SAGE PASSER, in her)
Capacity as Partner or Joint Venturer of Sage)
Realty and Individually as Beneficiary of)
Sage Realty,)
)
)
)
Defendants.)
)
_____)

**DECLARATION OF ANDREW B. KRATENSTEIN IN SUPPORT OF THE SAGE
DEFENDANTS' OBJECTION TO THE TRUSTEE'S MOTION FOR LIMITED
ADDITIONAL DISCOVERY BASED ON PRIOR ORDERS AUTHORIZING
DEPOSITION OF BERNARD L. MADOFF**

ANDREW B. KRATENSTEIN, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a partner of the firm of McDermott Will & Emery LLP, attorneys for defendants Malcolm Sage, Martin Sage, Ann Sage Passer, Sage Associates, and Sage Realty (collectively, the “Sages”) in the above-captioned matters. I am familiar with the facts of this case and submit this declaration in support of the Sages’ objection to the Trustee’s motion for limited additional discovery based on the prior orders authorizing deposition of Bernard L. Madoff.
2. Attached hereto as Exhibit 1 are excerpts from the transcript of Bernard L. Madoff’s plea allocution, dated March 12, 2009.
3. Attached hereto as Exhibit 2 are excerpts from the transcript of a hearing before this Court on July 25, 2018, concerning the Trustee’s Motion for an Order Establishing an Omnibus Proceeding for the Purpose of Determining the Existence, Duration, and Scope of the Ponzi Scheme at BLMIS.
4. Attached hereto as Exhibit 3 are excerpts from the Expert Report of Bruce G. Dubinsky, MST, CPA, CFE, CVA, CFF, MAFF, dated August 20, 2013.
5. Attached hereto as Exhibit 4 are excerpts from the Sages’ Answer in *Picard v. Sage Associates, et al.*, Adv. Pro. No. 10-4362 (SMB) (the “Sage Associates Adversary Proceeding”), dated September 18, 2015.
6. Attached hereto as Exhibit 5 are excerpts from the Sages’ Answer in *Picard v. Sage Realty, et al.*, Adv. Pro. No. 10-4400 (SMB) (the “Sage Realty Adversary Proceeding”), dated September 18, 2018.
7. Attached hereto as Exhibit 6 are true and complete copies of the Case Management Notices in the Sage Associates and Sage Realty Adversary Proceedings, dated October 21, 2015.

8. Attached hereto as Exhibit 7 is an excerpt from the Trustee's Initial Disclosures in the Sage Associates Adversary Proceeding, dated December 17, 2015.

9. Attached hereto as Exhibit 8 are excerpts from the Sages' First Set of Requests for Production of Documents and Interrogatories to the Trustee in the Sage Associates Adversary Proceeding, dated July 1, 2016.

10. Attached hereto as Exhibit 9 is a true and complete copy of the Sages' Response to the Trustee's Interrogatory No. 13 in the Sage Associates Adversary Proceeding, dated August 12, 2016.

11. Attached hereto as Exhibit 10 are excerpts from the transcript of a hearing before this Court concerning the order authorizing the deposition of Bernard L. Madoff, dated August 24, 2016.

12. Attached hereto as Exhibit 11 is a true and complete copy of a letter from the Sages' counsel to the Court, dated November 14, 2016, containing the Sages' counsel's request to use the Annette Bongiorno's deposition transcript from the profit withdrawal proceeding in the Sage Associates and Sage Realty Adversary Proceedings.

13. Attached hereto as Exhibit 12 is a true and complete copy of a letter to the Court from the Trustee's counsel, dated November 18, 2016, containing the Trustee's opposition to the Sages' counsel's request to use the Annette Bongiorno's deposition transcript from the profit withdrawal proceeding in the Sage Associates and Sage Realty Adversary Proceedings.

14. Attached hereto as Exhibit 13 are excerpts from the transcript of the hearing before this Court held on December 6, 2016.

15. Attached hereto as Exhibit 14 are true and complete copies of the Amended Case Management Notices in the Sage Associates and Sage Realty Adversary Proceedings, dated November 17, 2016.

16. Attached hereto as Exhibit 15 are excerpts from the deposition transcript of Bernard L. Madoff, dated December 20, 2016.

17. Attached hereto as Exhibit 16 is a true and complete copy of the Expert Rebuttal Report of Bill Feingold, dated February 13, 2017.

18. Attached hereto as Exhibit 17 are excerpts from the deposition transcript of Bernard L. Madoff, dated April 26, 2017.

19. Attached hereto as Exhibit 18 are true and complete copies of the Second Amended Case Management Notices in the Sage Associates and Sage Realty Adversary Proceedings, dated June 22, 2017.

20. Attached hereto as Exhibit 19 are excerpts from the transcript of the hearing before this Court, dated July 26, 2017.

21. Attached hereto as Exhibit 20 is a true and complete copy of a letter from Andrew B. Kratenstein to David Sheehan, dated August 30, 2017.

22. Attached hereto as Exhibit 21 is a true and complete copy of a letter produced by the Trustee from Malcolm Sage to Bernard L. Madoff bearing production number MADTBB02431294.

23. Attached hereto as Exhibit 22 is a true and complete copy of a letter produced by the Trustee from Malcolm Sage to Bernard L. Madoff and Annette Bongiorno bearing production number MADTBB02370451.

24. Attached hereto as Exhibit 23 is a true and complete copy of a letter produced by the Trustee from Malcolm Sage to Bernard L. Madoff and Annette Bongiorno bearing production number MADTBB01170931.

25. Attached hereto as Exhibit 24 is a true and complete copy of a letter produced by the Trustee from Malcolm Sage to Bernard L. Madoff and Annette Bongiorno bearing production number MADTB01169555.

26. Attached hereto as Exhibit 25 is a true and complete copy of Anette Bongiorno's "Year End Notes" produced by the Trustee bearing production numbers MADTB001170922-23.

27. Attached hereto as Exhibit 26 is a true and complete copy of a letter produced by the Trustee from Malcolm Sage to Bernard L. Madoff bearing production numbers MADTSS00384441-42.

28. Attached hereto as Exhibit 27 are excerpts from the deposition transcript of Bernard L. Madoff, dated November 8, 2017.

29. Attached hereto as Exhibit 28 are true and complete copies of the Third Amended Case Management Notices in the Sage Associates and Sage Realty Adversary Proceedings, dated September 28, 2017.

30. Attached hereto as Exhibit 29 are excerpts from the deposition transcript of Bernard L. Madoff, dated November 9, 2017.

31. Attached hereto as Exhibit 30 are excerpts from the deposition transcript of Malcolm Sage, dated November 15, 2017.

32. Attached hereto as Exhibit 31 are excerpts from the deposition transcript of Martin Sage, dated November 17, 2017.

33. Attached hereto as Exhibit 32 are excerpts from the deposition transcript of Ann Sage Passer, dated November 21, 2017.

34. Attached hereto as Exhibit 33 are true and complete copies of the Fourth Amended Case Management Notices in the Sage Associates and Sage Realty Adversary Proceedings, dated January 23, 2018.

35. Attached hereto as Exhibit 34 are true and complete copies of the Fifth Amended Case Management Notices in the Sage Associates and Sage Realty Adversary Proceedings, dated March 19, 2018.

Dated: October 17, 2018
New York, New York

/s/Andrew B. Kratenstein
Andrew B. Kratenstein

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